

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN EDWARD LEWIS,

Defendant-Appellant.

UNPUBLISHED

August 26, 2008

No. 278785

Wayne Circuit Court

LC No. 07-003381-01

Before: Cavanagh, P.J., and Jansen and Kelly, JJ.

MEMORANDUM.

Defendant was convicted by a jury of first-degree home invasion, MCL 750.110a(2), and was sentenced to 15 months to 20 years in prison. He appeals as of right, and we affirm. This appeal has been decided without oral argument. MCR 7.214(E).

Defendant's sole argument on appeal is that the trial court failed to sentence him within the guidelines range and that he is therefore entitled to resentencing.

First-degree home invasion is a Class B felony subject to the legislative guidelines. MCL 777.16f. The maximum sentence is 20 years. MCL 750.110a(5). A court must impose a minimum sentence within the guidelines range unless a departure from the guidelines is permitted. MCL 769.34(2). If a sentence is within the minimum sentence range established by guidelines, it must be affirmed on appeal unless there was an error in the scoring of the guidelines or the trial court relied on inaccurate information. MCL 769.34(10).

After the trial court resolved challenges to the scoring of the guidelines, defendant's score placed him in the B-II category, for which the minimum sentence range is 15 to 25 months. MCL 777.63. The trial court imposed a minimum sentence of 15 months, which was within, and at the low end of, the appropriate guidelines range. Defendant has not identified an error in the scoring of the guidelines or any inaccurate information relied upon by the court at sentencing. Therefore, the sentence must be affirmed.¹ MCL 769.34(10). Defendant's sentence is not

¹ Although the trial court relied on hearsay to determine the scoring of OV 14, MCL 777.44, hearsay is admissible at sentencing, MRE 1101(b)(3), and defendant has not shown that the hearsay statement was inaccurate. Moreover, "a sentencing factor need be proved only by a
(continued...)

subject to review for proportionality. *People v Pratt*, 254 Mich App 425, 429-430; 656 NW2d 866 (2002).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly

(...continued)

preponderance of the evidence.” *People v Harris*, 190 Mich App 652, 663; 476 NW2d 767 (1991).